



**[4910-EX-P]**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2014-0385; FMCSA-2014-0387; FMCSA-2017-0058]**

### **Qualification of Drivers; Exemption Applications; Hearing**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 34 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on December 26, 2019. The exemptions expire on December 26, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, 202-366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE, Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Operations, (202) 366-9826.

### **SUPPLEMENTARY INFORMATION:**

#### **I. Public Participation**

##### **A. Viewing Documents and Comments**

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov/docket?D=FMCSA-2014-0385> or <http://www.regulations.gov/docket?D=FMCSA-2014-0387> or <http://www.regulations.gov/docket?D=FMCSA-2017-0058> and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

## **B. Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

## **II. Background**

On December 30, 2019, FMCSA published a notice announcing its decision to renew exemptions for 34 individuals from the hearing standard in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (84 FR 72117). The public comment period ended on January 29, 2020, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

### **III. Discussion of Comments**

FMCSA received one comment in this proceeding. The commenter stated that the exemption is a good idea but that it is a little bit too much power for the Federal government to intervene. They went on to state that because the driver's license is issued under State regulation that the Federal government should not intervene with these drivers. During the application process, it was determined that these applicants are interstate CMV drivers subject to the FMCSRs. Therefore, it is appropriate for FMCSA to determine their eligibility to receive a Federal hearing exemption.

### **IV. Conclusion**

Based upon its evaluation of the 34 renewal exemption applications and comment received, FMCSA announces its decision to exempt the following drivers from the hearing requirement in §391.41 (b)(11).

As of December 26, 2019, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 34 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (84 FR 72117):

Mario Alvarado (CA)	Kasseth Andrews (MA)	Randy Bailey (NJ)
Ivan Batista (NJ)	Joseph Bence (OH)	Daryl A. Broker (MN)
Justin Brooks (WA)	Christa Butner (NC)	William Darnell (AZ)
Travis K. Davisson (IA)	Sean M. Dearsman (OH)	Mitchell R. Estill (MO)
Lucius Fowler (IL)	Buddy Gann (IN)	Teela Gilmore (GA)
John Grebenc (MN)	Clint Homom (IL)	Paul Hoover (PA)
Amy Ivins (NE)	Thomas Jensen (IA)	Charles J. Jernigan, Jr. (SC)
James M. Johnson (MN)	Wayne A. Kramas (WI)	Daniel Krytosek (MN)
Nicholas Kulasa (IL)	Aaron S. Leader (AZ)	John R. Martikainen (CT)
James E. Redmond (IL)	Dustin Sargent (TX)	Michael Singleton (TX)
Marshall Smith (TX)	Michael Swetnam (TX)	Courtney D. Turner (VA)
Edward J. Zozaya (AZ)		

The drivers were included in docket number FMCSA-2014-0385, FMCSA-2014-0387, or FMCSA-2017-0058. Christa Butner was previously published under the name Christa Copley. Their exemptions are applicable as of December 26, 2019, and will expire on December 26, 2021.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

**Issued on: February 11, 2020.**

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Larry W. Minor,  
*Associate Administrator for Policy.*

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